

REMARKS

Claims 1-6 and 8-21 are pending in this application. By this Response, claim 8 is amended to correct its dependency to be on claim 1 rather than canceled claim 7. No new matter has been added by the amendment to claim 8. Reconsideration of the claims in view of the following remarks is respectfully submitted.

I. Claim Objections

The Final Office Action objects to claim 8 stating that it is dependent upon a canceled claim. By this Response, claim 8 is amended to correct its dependency to be on claim 1 rather than canceled claim 7. Accordingly, Applicants respectfully request withdrawal of the objection to claim 8.

II. Rejection under 35 U.S.C. § 112

The Final Office Action rejects claims 3 and 5 stating that there is insufficient antecedent basis for the phrase “the at least one previously disabled portion” in these claims. The Final Office Action further states claim 2 recites a disabled portion that is automatically re-enabled and thus, “there is no disabled portion after claim 2.” Applicants respectfully disagree.

Claim 2 does not specify any time frame with regard to the automatic re-enabling of a previously disabled portion of program code. The re-enabling may be performed at any time after the portion of program code has been disabled. Thus, it is completely consistent that the features of claims 3 and 5 may occur between the time of disabling the portion of program code and re-enabling the portion of program code. The claims do not recite, nor are they intended to recite, a time line of events that occur one after the other. All that is necessary is that the steps of the claim be performed, no ordering is stated or implied. Thus, contrary to the assertion made in the Final Office Action, there is sufficient basis for the features of claims 3 and 5 in the recitation of claim 2.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3 and 5 under 35 U.S.C. § 112.

III. Rejections Based on Chenier and Storisteneau

The Final Office Action rejects claims 1, 6, 9-14, and 16-21 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Chenier (U.S. Patent Application Publication No. 2004/0003383) in view of Storisteneau (U.S. Patent No. 6,792,595). The Final Office Action further rejects claims 2-5, 8, and 15 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Chenier in view of Storisteneau, and further in view of Endejan (U.S. Patent Application Publication No. 2002/0184611). These rejections are respectfully traversed.

Under 35 U.S.C. § 103(c), Storisteneau is not prior art and cannot be relied upon for establishing a case of obviousness. As stated in 35 U.S.C. § 103(c)(1):

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The present application and the Storisteneau reference are both assigned to International Business Machines Corporation of Armonk, New York. The present application was filed on November 25, 2003. The Storisteneau patent was filed on September 16, 1999 and was issued on September 14, 2004. Therefore, at the time the claimed invention was made, both the subject matter of Storisteneau and the claimed invention were subject to an obligation of assignment to International Business Machines Corporation of Armonk, New York. Accordingly, Storisteneau is not prior art under 35 U.S.C. § 103(c).

Since Storisteneau is not prior art, and Storisteneau is used as a basis for allegedly teaching the features admitted by the Examiner to be missing from both Chenier and Endejan, the rejection under 35 U.S.C. § 103(a) set forth in the Final Office Action does

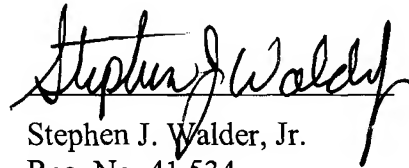
not present a prima facie case of obviousness with regard to claims 1-6 and 8-21. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-6 and 8-21 under 35 U.S.C. § 103(a).

IV. Conclusion

It is respectfully urged that the subject application is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

DATE: December 18, 2006

A handwritten signature in black ink, appearing to read "Stephen J. Walder, Jr.", written over a horizontal line.

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